

EXHIBIT 1

INTRODUCTION

From October 18, 1990 until March 12, 1996, Respondent Fernando Vellanoweth was the treasurer for California Workers' Compensation Defense Attorneys' Association Education Fund PAC (hereinafter "Workers' Compensation PAC"). From February 5, 1982 until July of 1996, Respondent Vellanoweth was the assistant treasurer for the Los Angeles Court Reporters PAC (hereinafter "Court Reporters PAC"). As the treasurer and assistant treasurer for these two committees, Respondent Vellanoweth wrote checks for his own use in violation of the personal use provisions of the Political Reform Act.

For the purposes of this Stipulation, Respondent's violations of the Political Reform Act (hereinafter, "Act")¹ are stated as follows:

COUNTS 1-11: Between July 30, 1993 and February 15, 1994, Respondent Fernando Vellanoweth caused the Workers' Compensation PAC to make expenditures of campaign funds which conferred a substantial personal benefit on him, in violation of section 89512.5, subdivision (b) of the Government Code.

COUNTS 12-35: Between May 17, 1993 and June 24, 1996, Respondent Fernando Vellanoweth caused the Court Reporters PAC to make expenditures of campaign funds which conferred a substantial personal benefit on him, in violation of section 89512.5, subdivision (b) of the Government Code.

SUMMARY OF THE LAW

Personal Use

The Act was amended in 1990 to include provisions regulating the manner and purposes for which campaign funds could be used. Section 89512.5, subdivision (b) states:

Any expenditure by a committee that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure of campaign funds held by the committee, shall be directly

¹ The Political Reform Act is contained in Government Code section 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations section 18000 *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

related to a political, legislative, or governmental purpose of the committee.

Section 89511, subdivision (a)(3) defines “substantial personal benefit” as an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200).”

Furthermore, Section 89518, subdivision (b) states that “campaign funds shall not be used to compensate any individual or individuals with authority to approve the expenditure of campaign funds for the performance of political, legislative or governmental activities, except as provided in subdivision (b) of Section 89513 and for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.”

Section 89513, subdivision (b) provides that campaign funds can only be used to pay for or reimburse the cost of professional services if the services are directly related to a political, legislative, or governmental purpose. Section 89513, subdivision (b)(1) clarifies that expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

Liability for Violations

Section 83116.5 states that any person who purposely or negligently causes any other person² to violate any provisions of the Act, shall be liable for those violations. However, Section 83116.5 only applies to those persons who have filing or reporting obligations, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by the Act.

SUMMARY OF THE FACTS

This case was referred to the Commission by the Franchise Tax Board (“FTB”). The Workers’ Compensation PAC was selected for audit pursuant to Section 90001, for the audit period 1995-1996. FTB noted a discrepancy in the PAC’s opening balance for the audit period, which could not be explained. The audit report was released on March 31, 2000, and the case was referred to the Enforcement Division. Further investigation revealed the discrepancy could largely be explained by Respondent Vellanoweth issuing committee checks to himself and later repaying the committee for the amount he had taken.

The Court Reporters PAC was also selected for audit, for the period 1997–1998. FTB referred the case to the Enforcement Division because the campaign statements reflected that Respondent Vellanoweth had reimbursed the PAC for misappropriated funds.

These audits by FTB and further investigation by the Enforcement Division resulted in the following findings:

² “Person” as defined in Section 82047 includes a committee.

COUNTS 1 - 11

Workers' Compensation PAC

Respondent Fernando Vellanoweth was the paid treasurer for the Workers' Compensation PAC, from October 18, 1990 through March 12, 1996. His duties included writing checks for committee expenses, maintaining the committee records, and preparing the committee's campaign statements. In addition to writing checks to pay himself for his professional services to the committee, Respondent Vellanoweth also wrote checks to himself which were not directly related to any political, legislative, or governmental purpose, and were not made for the purpose of reimbursing himself for professional services or out of pocket expenses. Respondent Vellanoweth stated that he considered the funds to be advances, and that he intended to pay the funds back. Respondent Vellanoweth admitted that he was not authorized to take advances.

Respondent made the following unauthorized payments to himself from the Workers' Compensation PAC:

COUNT	DATE OF CHECK	AMOUNT OF CHECK
1	7/30/93	\$500.00
2	8/4/93	\$1,000.00
3	9/15/93	\$750.00
4	10/11/93	\$500.00
5	11/15/93	\$450.00
6	12/01/93	\$1,500.00
7	12/23/93	\$1,500.00
8	12/24/93	\$1,000.00
9	1/25/94	\$1,000.00
10	1/28/94	\$1,000.00
11	2/15/94	\$1,000.00
Total:		\$10,200.00

In total, Respondent made eleven unauthorized payments to himself. Respondent Vellanoweth has stated that he reimbursed the committee in full. The committee did not take any action against Respondent Vellanoweth. He continued to be the committee's treasurer until March 12, 1996. There is no evidence that this pattern of behavior continued.

Respondent Vellanoweth has admitted that the payments were for his own use and therefore none of the payments were directly related to a political, legislative or governmental purpose of the Committee. Since each of these payments was in excess of \$200, each of the payments conferred a substantial personal benefit on Respondent Vellanoweth, as defined by Section 89511, subdivision (b)(3). As a result, Respondent Vellanoweth caused the Worker's Compensation PAC to violate Section 89512.5, by making payments that conferred a substantial personal benefit on the committee's treasurer, but were not directly related to a political, legislative, or governmental purpose. Pursuant to

Section 83116.5, Respondent is therefore liable for eleven counts of violating Section 89512.5, by issuing eleven checks to himself totaling \$10,200.00.

COUNTS 12 - 35

Court Reporters PAC

Respondent Vellanoweth was the assistant treasurer for the Court Reporters PAC, and was compensated for his services. His duties included writing checks for committee expenses, maintaining the committee records, and preparing the committee's campaign statements. In addition to writing checks to pay himself for his professional services to the committee, Respondent Vellanoweth also wrote checks to himself which were not directly related to any political, legislative, or governmental purpose, and were not made for the purpose of reimbursing himself for professional services or out of pocket expenses.

Respondent made the following unauthorized payments from the Court Reporters PAC:

COUNT	DATE	AMOUNT OF CHECK
12	5/17/93	\$1,625.00
13	5/4/93	\$1,250.00
14	7/16/93	\$375.00
15	8/04/93	\$1,000.00
16	10/13/93	\$500.00
17	12/01/93	\$450.00
18	1/07/94	\$750.00
19	5/20/94	\$2,000.00
20	6/15/94	\$2,000.00
21	6/17/94	\$1,250.00
22	12/16/94	\$1,000.00
23	5/15/95	\$375.00
24	6/04/95	\$250.00
25	7/11/95	\$250.00
26	8/09/95	\$1,200.00
27	8/15/95	\$350.00
28	Illegible	\$500.00
29	9/18/95	\$325.00
30	10/23/95	\$250.00
31	12/22/95	\$450.00
32	12/28/95	\$475.00
33	1/04/96	\$375.00
34	3/06/96	\$500.00
35	6/24/96	\$300.00

COUNT	DATE	AMOUNT OF CHECK
Total:		\$17,800.00

The Court Reporters PAC became aware that there was a problem with their bank account when they received notice that several checks had been returned for non-sufficient funds. Thereafter, the Committee conducted an internal audit and compiled a list of unauthorized payments. Once the Court Reporters PAC became aware of Respondent Vellanoweth's misconduct, Respondent Vellanoweth repaid the misappropriated funds and other costs and fees incurred by the Committee.

In total, Respondent made twenty-three unauthorized payments to himself and made one unauthorized payment to reimburse money he misappropriated from the Workers' Compensation PAC. Respondent Vellanoweth has admitted that the payments were for his own use, and therefore none of the payments were directly related to a political, legislative or governmental purpose of the Committee. Since each of these payments was in excess of \$200, each payment conferred a substantial personal benefit on Respondent Vellanoweth, as defined by Section 89511, subdivision (b)(3).

As a result, Respondent Vellanoweth caused the Court Reporters PAC to violate Section 89512.5, by making payments that conferred a substantial personal benefit on the committee's assistant treasurer, but were not directly related to a political, legislative, or governmental purpose, as mandated by Sections 89513, subdivision (b), and 89518. Pursuant to Section 83116.5, Respondent is therefore liable for twenty-four counts of violating Section 89512.5, by issuing twenty-four checks for his personal benefit, totaling \$17,800.00.

CONCLUSION

Personal use violations are serious violations of the Political Reform Act. Respondent's conduct is mitigated by the fact that he has made restitution to both of the committees that were involved. Furthermore, in the case of the Workers' Compensation PAC, Respondent Vellanoweth made restitution before anyone connected with the PAC discovered what he had done.

This matter involves thirty-five counts of violating the personal use provisions of the Act for a total personal benefit of Thirty Thousand Dollars (\$30,000.00), and carries a maximum administrative penalty of Seventy Thousand Dollars (\$70,000.00). As Respondent Vellanoweth has made restitution to the committees, and was not using the money for undisclosed political purposes which would have resulted in further public harm, imposition of a substantial penalty that is less than the maximum is appropriate. Therefore, imposition of the agreed upon penalty of Thirty-Five Thousand Dollars (\$35,000.00) is justified.